

(PCT Article 36 and Rule 70)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AT2004/000107

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-8 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 7, 8 _____ received by this Authority on 16.08.2004 with the letter of 12.08.2004
- nos.* 1-6 _____ received by this Authority on 24.05.2005 with the letter of 18.05.2005
- ☒ the drawings:
- sheets _____ as originally filed/furnished
- sheets* 1/8-8/8 _____ received by this Authority on 24.05.2005 with the letter of 18.05.2005
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☒ the claims, nos. 9, 10 _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
I. Documents			
<p>This report makes reference to the following documents:</p> <p>D1: DE 199 30 652 A</p> <p>D2: DE 25 15 188 A</p> <p>D3: EP-A-0 779 067</p> <p>D4: DE 196 45 077 C</p> <p>D5: EP-A-0 943 308</p>			
II. Requirements for novelty and inventive step (PCT Article 33(2) and (3))			
1. D1, which is considered to represent the closest prior art, discloses (see the sole drawing) (the references in parentheses are to this document):			
<p>a process for operating a warm or hot air cabin</p> <p>(1) using a coolant (in the form of water, which is vaporized; cf. the heat of vaporization required) to stimulate the human body ("infusions" with water also serve this purpose).</p>			

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The stimulating effects are intensified by circulating the warm or hot air in the cabin at ceiling level, calming the air at intervals and introducing the coolant into the flow of warm or hot air at ceiling level. Although D3 discloses circulation at ceiling level with periodic calming, even a combination of the teachings of D1 and D3 does not yield the process according to the invention.

Consequently, the subject matter of **claim 1** is both novel (PCT Article 33(2)) and meets the PCT requirements for inventive step (PCT Article 33(3)).

2. D1 discloses (see the sole drawing) (the references in parentheses are to this document):

a warm air cabin (1) wherein, in addition to conventional heating and air-circulating devices (2, 3), a device (in the form of a water tank (12)) for supplying coolants (in the form of water) is provided.

To convert a warm air cabin of this type so that it is be suitable for carrying out a process such as that defined in claim 1 of the present application, the following would be required (see also the observations below):

the air-circulating device should be arranged at ceiling level, the device for supplying coolants

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citations and explanations supporting such statement

should be arranged at ceiling level in the vicinity of the air-circulating device and a device designed such that the circulation of warm or hot air at ceiling level is periodically interrupted and the coolant introduced into the flow of warm or hot air should be provided. Since the prior art contains no suggestion that could induce a person skilled in the art to convert the warm air cabin known from D1 in this way, the subject matter of independent **device claim 3** likewise meets the requirements for novelty and inventive step as per PCT Article 33(2) and (3).

Observations:

a) The wording in independent device claim 3 "... for carrying out the process according to claim 1" should only be construed to mean that the warm air cabin is suitable for the intended use (see PCT International Search and Preliminary Examination Guidelines, paragraph 5.23). However, this statement of use does not explicitly define any structural features and, contrary to the requirement for clarity as per PCT Article 6, it is unclear which structural features of the device are implied.

b) Claim 3 is further unclear (PCT Article 6) in that, although it is an independent claim, it does not contain all the technical features necessary for the definition of the invention. In particular, the structural features required in order to control the warm air cabin such that the circulation of warm or hot air at ceiling level is

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periodically interrupted and that the coolant is introduced into the flow of warm or hot air are absent.

c) It is unclear (PCT Article 6) which structural features are meant by "**conventional** heating and air-circulating devices".

3. **Claims 2 and 4-8** are dependent on claims 1 and 3, respectively, and therefore likewise meet the PCT requirements for novelty and inventive step.

Observation:

It is assumed that "switching off", not "switching on", is meant in the last line of claim 2.

III. Instruction

The application does not meet the requirements of PCT Rule 11.13(1) and (m). Several reference signs used in figures 6-9, 11 and 12 are inconsistent with the description and the reference sign 5' used in the claims and the description does not appear in the drawings (cf. for example, claims 4 and 5 and the description, page 3, paragraph 2).